

Notice of Allowability

Application No.

10/693,115

Examiner

Robert L. Nasser

Applicant(s)

TSUKASHIMA ET AL.

Art Unit

3735

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to phone conversation of June 13, 2007.
2. ☒ The allowed claim(s) is/are 1-31.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f)
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material

5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Michael Klicpera on June 13, 2007.

The application has been amended as follows:

In the specification:

On page 2, line 6, the words "currently pending" have been changed to – now US Patent 7101341--.

Claims 1-31 have been rewritten as follows: --

1. A system for monitoring a medical condition comprising:

a film

an apparatus that condenses a sample of an individual's breath on said film;

a sensor in close proximity to said film, said sensor positioned such that it contacts said condensed sample of the individual's breath when the condensed sample is present;

a processing receiver; and

said sensor in real-time communication with said receiver.

2. The system as recited in claim 1, wherein said apparatus is a general mask or another device for directing the patients' breath towards said film.
3. The system as recited in claim 1, wherein said sensor is designed to monitor pH.
4. The system as recited in claim 1, wherein said medical condition is a respiratory condition, such as asthma, gastro-esophageal reflux or laryngo-pharyngeal reflux.
5. The system as recited in claim 1, wherein said communication is accomplished by a plurality of wires.
6. The system as recited in claim 1, wherein said communication is accomplished by a wireless means.
7. The system as recited in claim 1, wherein said apparatus has a means to continuously circulate and replace the sample of liquefied breath with a fresh sample of liquefied condensed breath.
8. The system as recited in claim 1, wherein said apparatus has a means to monitor the condensate temperature on said film.
9. A system for monitoring and diagnosing a medical condition comprising:

A film

an apparatus that condenses a sample of an individual's breath on said film;

a sensor in close proximity to said film, said sensor positioned such that it contacts said condensed sample of the individual's breath when the condensed sample is present;

a processing receiver;

said sensor in real-time communication with said receiver; and

said processing receiver processing said information for determining various diagnoses.

10. The system as recited in claim 9, wherein said apparatus is a general mask or another mask-less device for directing the patient's breath in close proximity to said sensor.
11. The system as recited in claim 9, wherein said medical condition is a respiratory condition.
12. The system as recited in claim 9, wherein said communication is accomplished by a plurality of wires.
13. The system as recited in claim 9, wherein said communication is accomplished by a wireless means.
14. The system as recited in claim 9, wherein said sensor is designed to monitor pH.
15. The system as recited in claim 9, wherein said apparatus has a means to continuously circulate and replace the sample of liquefied breath with a fresh sample of liquefied condensed breath.

16. The system as recited in claim 9, wherein said apparatus has a means to monitor the condensate temperature on said film.

17. A system for monitoring, diagnosing, and treating a medical condition:

a film;

an apparatus that condenses a sample of an individual's breath on a film comprising;

a sensor in close proximity to said film, said sensor positioned such that it contacts said condensed sample of the individual's breath when the condensed sample is present;

a processing receiver;

said sensor in a first real-time communication with said receiver;

said processing receiver processing said information for determining various diagnoses and treatments; and

said processing receiver in a second communication with at least one treatment device to administer at least one therapeutic dose.

18. The system as recited in claim 17, wherein said apparatus is a general mask or another mask-less device for directing the patient's breath in close proximity to apparatus.

19. The system as recited in claim 17, wherein said medical condition is a respiratory condition, such as asthma or laryngopharyngeal reflux.
20. The system as recited in claim 17, wherein said first communication is accomplished by a plurality of wires.
21. The system as recited in claim 17, wherein said first communication is accomplished by a wireless means.
22. The system as recited in claim 17, wherein said second communication is accomplished by a plurality of wires.
23. The system as recited in claim 17, wherein said second communication is accomplished by a wireless means.
24. The system as recited in claim 17, wherein said sensor is designed to monitor pH.
25. The system as recited in claim 17, wherein said treatment is a biocompatible agent capable of neutralizing an acidic condition.
26. The system as recited in claim 17, wherein said treatment is sodium bicarbonate.
27. The system as recited in claim 17, further comprising a communication between said processing receiver and a nebulizer/atomizer/humidifier.
28. The system as recited in claim 17, further comprising a third communication between said processing receiver and a continuous positive airway pressure device.

29. An apparatus for monitoring breath chemistry comprising:

a sensor;

a film;

a solid-state cooling means, said cooling means in close proximity with said film;

said cooling means reducing the temperature of said sensor below the dew point of a patient's breath such that the patient's breath condenses into a liquid that condenses on the film; and

said sensor position such that it is immersed in said liquefied breath on said film when the liquefied breath is present on the film;

30. An apparatus as recited in claim 29, further comprising a means to expel and replenish said collection pool with fresh liquefied patient's breath condensate.

31. The system as recited in claim 29, wherein said apparatus has a means to monitor the condensate temperature on said film. –

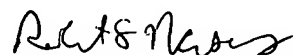
The claims were amended after a phone conversation with the applicants, Mr. Klicpera, and the examiner, where the examiner indicated that if applicant were to amend the claims to positively define that the sensor is in contact with the condensate on the film when it forms, the rejection would be overcome, as none of the art makes measurements from condensate formed on a film. All of the art the examiner found forms condensate in a chamber or test tube, which is not a film.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert L. Nasser whose telephone number is 571 272-4731. The examiner can normally be reached on m-f 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor II can be reached on 571 272-4730. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Robert L. Nasser
Primary Examiner
Art Unit 3735



RLN
June 15, 2007